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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,751	02/08/2001	Beatrix Kottwitz	H-3491-PCT/U	7934

7590 05/20/2003

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EXAMINER

ELHILO, EISA B

ART UNIT PAPER NUMBER

1751

16

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/701,751	KOTTWITZ ET AL.	

<b>Examiner</b>	<b>Art Unit</b>	
Eisa B Elhilo	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 April 2003.
- 2a) This action is **FINAL**.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- 4) Claim(s) 1,12-18,20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,12-18,20 and 21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>15</u> . | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

- 1 This action is responsive to the remarks filed on April 22,2003.
- 2 The rejection of claims 1, 12-18, 20 and 21 under 35 U.S.C. 103(a) as being unpatentable over Herbots et al. (WO 98/07818), is maintained for the reasons set forth in the previous office action on paper No. 13, dated 10/22/2002.

### ***Response to Applicant's Arguments***

- 3 Applicant's arguments filed 4/22/2003 have been fully considered but they are not persuasive.

With respect to the rejection based upon Herbots (WO, 818), Applicant argues that Herbots is indifferent to the origin of its amylases and therefore, one of ordinary skill in the art would have little reasons to select the claimed amylase from the amylases disclosed in Herbots to combine with the recited peroxidic oxidizing agent. The applicant also argues that there are teachings in the art that would have led one of skill to conclude that combining  $\alpha$ -amylases with the recited peroxidic oxidizing agents would not have been successful and accordingly, it is wholly unjustified for the examiner to conclude that one of skill would expect any of the members of the vast genus of amylases disclosed by Herbots to be equally useful in the presence of an oxidant.

The examiner respectfully disagrees with the above arguments because none of the recited prior art of EP 0 864 304 and EP 0 867 504 that provided by the applicant teaches or discloses a detergent composition that comprises  $\alpha$ -amylases in the presence of percarbonates as taught by the reference of Herbots. Therefore, a person of ordinary skill in the art would be motivated to select  $\alpha$ -amylase enzymes for their characteristic activity and combines these

Art Unit: 1751

enzymes with the bleaching agents of percarbonate compounds with a reasonable expectation of success that such a composition provides fabric cleaning, stain removal, whiteness maintenance, softening, color appearance and dye transfer inhibition as taught by the reference (see page 13, first paragraph). Further, the present claims having the term “comprising” or comprises”, neither of which exclude other components. MPEP 2111.03. Accordingly, the prima facie case of obviousness has been established.

4       **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

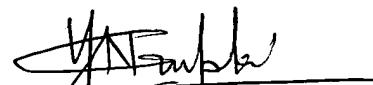
If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the

Art Unit: 1751

organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Elhilo  
May 16, 2003



YOGENDRA N. GUPTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700